

**MINUTES  
HEARING OFFICER  
JUNE 17, 2015**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

**Present:**

Vanessa MacDonald, Hearing Officer  
Steve Abrahamson, Planning & Zoning Coordinator  
Julie Scofield, Code Inspector  
Sherri Lesser, Senior Planner  
Dean Miller, Planner  
Ryan Kay, Planning Intern  
Diane McGuire, Administrative Assistant II

**Number of Interested Citizens Present: 13**

Meeting convened at 1:45 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by July 7, 2015 at 3:00 PM, to the Community Development Department.

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Ms. MacDonald noted that the following items had been removed from today's agenda:

- **Agenda Item No. 3**  
Request approval to abate public nuisance items at the **MILLER PROPERTY (PL150216)** located at 1085 East Carson Drive. The applicant is the City of Tempe.

**PROPERTY IN COMPLIANCE – ABATEMENT REQUEST CANCELLED**

- **Agenda Item No. 4**  
Request approval for a use permit to allow outdoor vending (food trucks & farmers market) for **SALT RIVER PROJECT (PL150183)** located at 1600 North Priest Drive. The applicant is Laure Molek/Salt River Project.

**CONTINUED TO JULY 7, 2015 HEARING OFFICER**

- **Agenda Item No. 6**  
Request approval for a variance to reduce the south side setback to allow a home addition for the **CARLSON RESIDENCE (PL150204)** located at 7918 South Ash Avenue. The applicant is Kevin Fulkerson/Cornerstone Design.

**CONTINUED TO AUGUST 4, 2015 HEARING OFFICER**

- **Agenda Item No. 11**

Request for a Use Permit to allow a 60 ft. monopole and equipment for **VERIZON PHO STRAY CAT (PL150037)**, located at 2425 East University Drive. The applicant is Steve Ciolek/Coal Creek Consulting.

**CONTINUED TO JULY 7, 2015 HEARING OFFICER**

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1. Vanessa MacDonald noted that the Hearing Officer Minutes for May 19, 2015 had been reviewed and approved.

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2. Steve Abrahamson noted that the Hearing Officer Minutes for the June 2, 2015 had been reviewed and approved.

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3. Request approval to abate public nuisance items at the **KEHRER PROPERTY (PL150202)** located at 9 West Geneva Drive. The applicant is the City of Tempe.

The property owner was not present at today's hearing.

Julie Scofield, Code Inspector, requested approval of an abatement of the property located at 9 West Geneva Drive. Notices have been sent to the owner of the property regarding an unregistered motorhome. A citation was issued for the unregistered motorhome, which was unpaid by the property owner, and the issue remains unresolved.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL150202/ABT15035/CE150778.

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4. Request approval for a use permit to allow a wireless communication tower (monopalm) for **AMERICAN TOWER/VERIZON WIRELESS PHO AUTOPLEX (PL150080)** located at 8205 South Priest Drive. The applicant is Michael Campbell/Campbell A & X LLC.

Dean Miller, Planner, gave an overview of this case, noting that the applicant is applying for a use permit to allow a 65 ft. monopalm with equipment shelter to be located on the southwest end of the US Post Office, South Station, just inside the perimeter wall. He noted that no public input had been received.

Michael Campbell of Campbell A & Z LLC was present to represent this case. He acknowledged his understanding of the assigned Conditions of Approval. Mr. Campbell explained that Verizon is a tenant on this tower. The monopalm is designed for two (2) carriers. The second tenant will need to have a smaller array of antennas.

Ms. MacDonald noted that this request meets the criteria for a use permit:

- No significant increase in vehicular or pedestrian traffic.
- Will not create a nuisance to the surrounding area.
- The proposed use will not impact property values. It will be located in an industrial zoned area, no closer than  $\frac{3}{4}$  of a mile from the nearest residential zoning property.
- It is compatible with the existing surrounding structures and uses; the neighboring properties are industrial zoned.
- The use will not generate disruptive behavior and will be located within an area secured from public access.

**DECISION:**

Ms. MacDonald approved PL150080/ZUP150130 subject to the following conditions:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
4. Any intensification or expansion of use shall require a new Use Permit.
5. The proposed monopalm shall be no greater than sixty five feet (65 ft.) in height to the top of the structure.
6. The proposed equipment cabinet shall be constructed of similar material and color to match the existing building.
7. A faux palm "trunk" shall be textured to mimic real tree bark.
8. A weather resistant emergency contact information sign shall be posted on the site and shall be visible to the public.
9. The access door shall require a Lexan vision panel. Details to be approved through Building Safety Plan Review.
10. A dark sky compliant light fixture shall be installed above the entry door. Details to be approved through Building Safety Plan Review.
11. The location shall be accented by the planting of two (2) thirty foot (30 ft.) tall natural Date Palm trees in the landscape area immediately west of the compound. A formal landscape plan shall be included with the Building Permit drawing set.
12. There shall be a minimum 56 palm fronds to disguise the array. The fronds shall be a minimum ten (10) feet in length and shall be placed to maximize their effectiveness.
13. The electric meter, disconnect and all other mechanical equipment shall be mounted to the interior of the wall to minimize the visual impact.

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5. Request approval for a use permit to allow the sale of vehicles for **101 MOTORS (PL150220)** located at 1901 East 5<sup>th</sup> Street. The applicant is Tony Tran/101 Motors.

Sherri Lesser, Senior Planner, gave an overview of the case. The property is located within an existing industrial area east of McClintock Drive, west of Price Road and north of University Drive. She noted that this request was for an indoor automotive sales business and that the applicant has interior space available to store and display all vehicles for sale inside the building. There will be no outdoor sales or display. In 2013, the applicant was granted a use permit for the business located a couple blocks away at 318 South River Drive. There have been no outstanding complaints or violations at their current location and the applicant is seeking to expand his business into a larger building.

Mr. Tony Tran was present to represent this case. He acknowledged his understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that this request meets the criteria for a use permit:

- No significant increase in vehicular or pedestrian traffic.
- Will not create a nuisance to the surrounding area. In order to store gasoline powered motors indoors, the building shall meet all building code requirements for occupancy.
- The proposed use will not impact property values. It is compatible with surrounding structures and uses.
- The use will not generate disruptive behavior and the applicant will be conducting business entirely inside the suite.

**DECISION:**

Ms. MacDonald approved PL150220/ZUP15058 subject to the following conditions:

1. This use permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
2. The use permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit, which may result in termination of the use permit.
4. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
5. The property owner shall replace all dead or missing trees along the street frontages (minimum of 1 tree per 30 linear feet of street frontage) and within the existing required landscaped islands within the parking lot.
6. Vehicles for sale may be located on building exterior for limited periods as part of a sales transaction, however, no signage, flags, banners or outdoor sales/promotional material shall be located on the vehicles or in the lot.
7. Test drives shall be conducted on city streets and not within the parking areas on this site or surrounding properties.

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6. Request approval for a use permit to allow a wireless communication tower (monopalm) for **VERIZON WIRELESS PHO MONEDA (PL150107)** located at 1700 East Elliot Road. The applicant is Casey Spiegel/Shaw and Associates PLC.

Ryan Kay, Planning Technician, presented this case. He noted that the location is behind the commercial center on the northwest corner of Elliot Road and McClintock Drive. The existing center is developed with two buildings that contain various uses including a tailor, educational center and gym. Verizon plans to lease a space near the back of the northwest corner of the site for a 55 ft. monopalm and equipment shelter. There is an existing 65 ft. monopalm at this site.

Casey Spiegel of Shaw and Associates PLC was present to represent this case, and acknowledged understanding of the assigned Conditions of Approval. He noted that as per Condition No. 7, the monopalm would be 18 ft. 6 inches from the nearest live palm.

Ms. MacDonald asked the applicant if the existing monopalm was co-locatable. Mr. Spiegel responded that co-location was not a solution in this particular case.

Ms. MacDonald noted that this request meets the criteria for a use permit:

- No significant increase in vehicular or pedestrian traffic.
- Will not create a nuisance to the surrounding area.
- The proposed use will not impact property values
- It is compatible with the existing surrounding structures and uses; the use of a faux palm tree will blend in with the existing palm trees on the property.
- The use will not generate disruptive behavior and will be located within an area secured from public access.

**DECISION:**

Ms. MacDonald approved PL150107/ZUP15036 subject to the following conditions of approval:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.

3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
4. Any intensification or expansion of use shall require a new Use Permit.
5. The monopole (monopalm) shall be no greater than 55 ft. 0 inches in height to top of structure (fronds).
6. The proposed equipment cabinet shall be constructed of similar material and color to match the existing building.
7. The proposed monopole (monopalm) shall maintain a ~~twenty foot (20 ft.)~~ **eighteen feet (18 ft.)** separation from any existing tree. **MODIFIED BY HEARING OFFICER**
8. A weather resistant emergency contact information sign shall be posted on the site and shall be visible to the public.
9. Design of faux palm tree shall incorporate a textured trunk.
10. Faux palm fronds shall fully screen W.C.F. array and remote radio heads.

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7. Request approval for a variance to reduce the street side yard setback to allow a home addition for the **LOPES RESIDENCE (PL150230)** located at 1153 West Elna Rae Street. The applicant is Bruce Cox.

Sherri Lesser, Senior Planner, presented this case. She explained that the applicant is seeking a variance to reduce the west street side yard setback from 10 ft. to 2 ft. 9 inches to accommodate an addition. The residence was expanded to add a storage room to the existing laundry room, encroaching closer to the street side yard. This expansion was constructed 20 years ago by a previous owner. The current owner is seeking the variance to facilitate the building permit process and make the structure legal in order to transfer ownership of the property. A neighborhood meeting was held and there is no opposition to this request.

Bruce Cox was present to represent this case. He acknowledged understanding of the assigned conditions of approval.

Ms. MacDonald noted that this request meets the criteria for a variance:

- Special circumstances are applicable to this property. The shape of this lot and placement of the existing structures on the lot create a special circumstance. The overall lot width has less buildable area due to the 10 ft. street side yard setback required by the ZDC. The site has an expansive ROW encroachment on the property.
- Strict application of this code will deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district. A windshield survey of the area found many similar circumstances which exist within the proximity of this house.
- Adjustment will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity. It is consistent with other R1-6 zoning properties, especially those within this neighborhood, given the number of similar structures.
- The special circumstances are not self-imposed by the property owner. The shape of the lot with the expansive ROW limits the ability to add on to the existing dwelling and encroachment of the proposed structure into the setback is necessary due to the lack of buildable area elsewhere on site.

#### DECISION:

Ms. MacDonald approved PL150230/VAR15003 subject to the following conditions:

1. The variance is valid for the plans as submitted within this application.
2. This variance is valid only after a building permit has been obtained and the required inspections have been completed and a final inspection has been passed.
3. The variance is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
4. The materials and colors of the addition shall match or be compatible with the existing structure.

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8. Request approval for a use permit to allow a wireless communication tower (monopalm) for **ST. JAMES CHURCH – T-MOBILE (PL150120)** located at 975 East Warner Road. The applicant is David Ullrich/Reliant Land Services.

Sherri Lesser, Senior Planner, presented this case. She noted that the applicant is requesting a use permit to allow a 65 ft. monopalm, wireless communication facility and equipment shelter on the northeast side of the St. James Church located at the southeast corner of Warner Road and Rural Road. A neighborhood meeting was held and three (3) members from the general public attended; there has been one (1) telephone inquiry.

Mr. David Ullrich of Reliant Land Services was present to represent this case. He acknowledged his understanding of the assigned conditions of approval.

Ms. MacDonald noted that no other palm trees are planted on this site. She stated that she would like to continue this case and requested a landscape plan be provided by the applicant.

Mr. David Ullrich stated that he would be happy to provide two (2) palm trees at the church. He was not aware that the planted trees needed to be provided on the plans.

Ms. MacDonald explained that a monopalm is out of context in this area.

Mr. Ullrich responded that he would work with staff regarding planting palm trees. He noted that the monopalm would be designed structurally to be co-locatable.

Ms. MacDonald stated that she would like to see a fully developed landscape plan with more than two (2) trees. She would also like to see an elevation plan with the trees included.

**DECISION:**

Ms. MacDonald continued PL150120/ZUP15056 to the July 7, 2015 Hearing Officer hearing.

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**ANNOUNCEMENTS**

- Steve Abrahamson noted that effective July 2015 the Hearing Officer public hearing schedule will be changed to evening meetings starting at 5:00 PM with a study session at 4:30 PM to review agenda items.

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The next Hearing Officer public hearing will be held on Tuesday, July 7, 2015 at 5:00 PM.

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With no further business, the public hearing adjourned at 2:33 PM.

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Prepared by: Diane McGuire, Administrative Assistant II  
Reviewed by:



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Steve Abrahamson, Principal Planner  
for Vanessa MacDonald, Hearing Officer  
SA:dm